

## **REMARKS**

Claims 58-70, 74-76 and 78 are pending. Claims 58-70, 74-76 and 78 were rejected by the Examiner in the Final Office Action dated July 8, 2008. Reconsideration of all rejected claims is requested in light of the arguments and amendments presented here.

### **Claim Rejections Under 35 U.S.C. §103**

Claims 58-70, 74-76 and 78 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,805,635 to Wells et al. ("Wells").

Claim 58 is amended to recite, "an operating system that runs on the computerized game controller," and "the plurality of functions stored in the computerized game controller." Support for these amendments may be found throughout the specification. For example, FIG. 1 shows gaming system 100 including computerized game controller 111 and FIG. 2 shows the structure of the computerized gaming system including operating system 300 and API 206. Also, page 10, lines 8-18 gives additional support. Claim 58 is amended to clarify that particular features are located in the computerized game controller. The Office action did not point out any computerized game controller containing such features in Wells. It is noted that the cited portions of Wells appear to refer to software downloading and it is not clear which element of Wells is considered to be the computerized game controller. It is requested that a specific feature be identified for this and all other claim features so that a full response may be provided. Furthermore, to the extent that "gaming terminal controller board" of column 4, line 6 of Wells is considered to be an Application Program Interface (API), it is not clear how a such a board is considered to be an API. It is also not clear how the gaming terminal controller board is considered to comprise a plurality of gaming functions callable by and used by the plurality of the gaming shared objects. Clarification is requested. In particular, it is requested that a specific citation be provided indicating where Wells discloses these features.

Claim 78 is amended to clarify that certain steps occur in the computerized game controller. These amendments are supported in a similar manner to the amendments to claim 58 discussed above. As noted above, the cited portions of Wells appear to refer to downloading of software, but it is not clear which feature of Wells (if any) could be considered as the claimed computerized game controller. Clarification is requested.

All dependent claims depend from one of the independent claims discussed above and are submitted to be allowable at least for depending from an allowable base claim. Furthermore, dependent claims recite additional features that have not been identified in the reference. It is noted that the Office action depends on taking certain elements to be "well known." No

admission is made with respect to any such element. It is requested that, where no reference has been provided for a claim element, Official notice be taken, or that the rejection be withdrawn.

### **New Claims**

New claims 79-81 are added. Claims 79-81 are supported throughout the specification. For example, claim 79 is supported by FIG. 1, and claims 80-81 are supported at page 12, line 25 – page 13, line 11.

### **Double Patenting Rejection**

Claims 58-71, 74-76 and 78 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 48-52 and 54-66 of copending U.S. Patent Application No. 10/827,042 to Martinek et al. ("Martinek"). However, U.S. Patent Application No. 10/827,042 has not yet issued as a patent. Therefore, no action is believed to be necessary to overcome the provisional rejection. Per MPEP 804, "the 'provisional' double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that 'provisional' double patenting rejection is the only rejection remaining in at least one of the applications." No position is taken as to whether the current claims are conflicting, or patentably indistinct, because the provisional patenting rejection is not the only rejection remaining at this point.

### **Information Disclosure Statement**

References submitted in a Supplemental Information Disclosure Statement dated January 3, 2007 remain unacknowledged. It is respectfully requested that this Supplemental Information Disclosure Statement be considered and the PTO Form 1449 be initialed and returned with the next Action.

A Supplemental Information Disclosure Statement is being filed herewith. It is respectfully requested that this Supplemental Information Disclosure Statement be considered and the PTO Form 1449 be initialed and returned with the next Action.

## **CONCLUSION**

Accordingly, it is believed that this application is now in condition for allowance and an early indication of its allowance is solicited. However, if the Examiner has any further matters that need to be resolved, a telephone call to the undersigned at 510-663-1100 would be appreciated.

Respectfully submitted,  
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